**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 12864 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**MAHENDRA RAMCHANDRA PRAJAPATI & 1 - Petitioner(s)**
**Versus**
**STATE OF GUJARAT & 4 - Respondent(s)**

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**Appearance :**
MR BP GUPTA for Petitioner(s) : 1 - 2.
MR PATHIK ACHARYA, ASST. GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 5.

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 10/05/2007**

**ORAL JUDGMENT**

1. By way of this petition under Article 227 of the Constitution of India, the petitioners have

prayed for an appropriate writ, direction and/or order quashing and setting aside the order passed by the Gujarat Revenue Tribunal dated 27.4.2006 passed in Review Application No. TENCA 12/2001; the order dated 21.9.2004 passed by the Gujarat Revenue Tribunal passed in Revision Application No. TENBA 623/1994 in dismissing the said revision application and confirming the order passed by the Mamlatdar & ALT and the order passed by the Deputy Collector (Appeal) passed in Tenancy Appeal No. 62/1994 dated 30.4.1994 rejecting the appeal of the petitioners and the order passed by the Mamlatdar & ALT dated 3.1.1994 passed in Tenancy Case No. 1066 of 1993 whereby the respondent No.4 is declared as a tenant of the land in question under the provisions of the Bombay Tenancy Act and the price of the land has been fixed.

2. The dispute is with regard to the land bearing Survey No. 1146/1 admeasuring 9409 sq mts situated at village Sanand. The respondent No.5

– Chandansang Kalyansang Duggar was the original landlord and the respondent No.4 – herein was claiming to be the tenant of the said land under the provisions of the Bombay Tenancy Act. The respondent No.4 – tenant initiated the proceedings before the Mamlatdar & ALT, Sanand under Section 32(1-B) of the Act being Ganot Case No. 139/90 for declaring him as tenant, however, the Mamlatdar & ALT by its order dated 21.3.1991 dismissed the said application. That the said order passed by the Mamlatdar & ALT dated 21.3.1991 passed in Tenancy Case No. 139/90 was taken under suo-motu revision by the Deputy Collector (Land Reforms), Ahmedabad being Tenancy Revision Case No. 75/1992 exercising the powers under Section 76(A) of the Act and the Deputy Collector allowed the said revision application and quashed and set aside the order passed by the Mamlatdar & ALT, Sanand dated 21.3.1991 passed in Tenancy Case No. 139/90 and remanded the matter to the Mamlatdar. That thereafter on remand, the Mamlatdar & ALT by its order dated 3.1.1994 passed in Tenancy Case No.

1066/1993 declared the respondent No.4 as tenant and also further passed an order of fixing the price of the land under Section 32(G) of the Act. It appears that in the meantime, the petitioners purchased the aforesaid land from the respondent No.5 – original landlord and therefore, being aggrieved and dissatisfied with the said order passed by the Mamlatdar & ALT, Sanand dated 3.1.1994 passed in Tenancy Case No. 1066 of 1993, petitioners preferred appeal before the Deputy Collector (Appeal), Ahmedabad being Tenancy Appeal No. 62/1994 mainly on the ground that as in the meantime they have purchased the land in question, they were required to be heard. That the Deputy Collector by its order dated 30.4.1994 dismissed the said appeal confirming the order passed by the Mamlatdar & ALT, Sanand and declaring the respondent No.4 as tenant and fixing the purchase price. Being aggrieved and dissatisfied with the order passed by the Deputy Collector dated 30.4.1994 passed in Tenancy Appeal No. 62/1994, the petitioners preferred the revision

application before the Gujarat Revenue Tribunal being Revision Application No. TENBA 623/94 and the Gujarat Revenue Tribunal by its judgment and order dated 7.3.2001 dismissed the said revision application confirming the order passed by both the authorities below. That thereafter the petitioners preferred Review Application No. TENCA 12/2001 before the Gujarat Revenue Tribunal to review the judgment and order dated 7.3.2001 passed in Revision Application No. TENBA 623/94 and the said review application came to be dismissed by the Gujarat Revenue Tribunal by its order dated 27.4.2006 by holding that there is no error apparent on the face of the record while passing the judgment and order dated 7.3.2001 passed in Revision Application No. TENBA 623/94. Being aggrieved and dissatisfied with the judgment and order passed by the Gujarat Revenue Tribunal passed in review application as well as the revision application in dismissing the revision application and confirming the order passed by all the authorities below declaring the respondent No.4

as a tenant and in determining the purchase price under Section 32(G) of the Act, the petitioners have preferred the present Special Civil Application under Article 227 of the Constitution of India.

3. Shri B.P.Gupta, learned advocate appearing for the petitioners has vehemently submitted that the orders passed by all the authorities below declaring the respondent No.4 as a tenant were without hearing the petitioners as they have purchased the land in question and therefore, the Deputy Collector as well as the Gujarat Revenue Tribunal ought to have set aside the orders by which the respondent No.4 was declared as a tenant and the purchase price was fixed under Section 32(G) of the Act.

4. It is required to be noted that the Bombay Tenancy Act is a benevolent Act and proceedings are between the landlord and the tenant and while declaring the respondent No.4 as a tenant under Section 32(1-B) of the Act and while

fixing the purchase price, the original landlord was heard. During the pendency of the tenancy proceedings, the petitioners purchased the land in question which they ought not to have purchased. As rightly observed by the Gujarat Revenue Tribunal, during the pendency of the tenancy proceedings, when the land in question is purchased by the petitioners, the said transaction is null and they could not have purchased the land during the pendency of the tenancy proceedings. Under the circumstances, no illegality has been committed by the Gujarat Revenue Tribunal in dismissing the revision application and confirming the order passed by the Deputy Collector as well as the Mamlatdar & ALT declaring the respondent No.4 as a tenant and fixing the purchase price. This is a petition under Article 227 of the Constitution of India, there is no jurisdictional error much less an error of law committed by the Tribunal which calls for the interference of this Court in exercise of the powers under Article 227 of the Constitution of India. Under the

circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly, dismissed.

[ M.R.Shah, J. ]

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